

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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C.W. MINING COMPANY and CHARLES REYNOLDS,

Appellants,

v.

KENNETH A. RUSHTON, Trustee, et al.,

Appellees.

MEMORANDUM DECISION AND ORDER CONSOLIDATING APPEALS FROM AUGUST 4, 2010 ORDER APPROVING SALE OF ASSETS

Case No. 2:10-CV-920 TS

This matter is before the Court on Trustee Kenneth A. Rushton's ("Trustee Rushton") Motion to Consolidate Appeals from August 4, 2010 Order Approving Sale of Assets<sup>1</sup> and Castle Valley Mining and Rhino Energy's Motion for Joinder.<sup>2</sup>

Through this Motion, Trustee Rushton seeks to consolidate four cases: *CW Mining et al. v. COP Coal Development et al.*, 2:10-CV-920- TS; *Hiawatha Coal Company v. COP Coal*

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<sup>1</sup>Docket No. 10.

<sup>2</sup>Docket No. 13.

*Development et al.*, 2:10-CV-921- TS; *COP Coal Development et al. v. ANR et al.*, 2:10-CV-922- TS; and *ANR v. COP Coal Development et al.*, 2:10-CV-924- TS. None of the parties have opposed Trustee Rushton’s Motion to Consolidate.

Consolidation of civil cases is governed by local rule DUCivR 42-1. Pursuant to DUCivR 42-1:

Any party may file a motion and proposed order to consolidate two or more cases for hearing by a single judge if the party believes that such cases or matters

- (i) arise from substantially the same transaction or event;
- (ii) involve substantially the same parties or property . . .;
- (iv) call for determination of substantially the same questions of law;  
or
- (v) for any other reason would entail substantial duplication of labor  
or unnecessary court costs or delay if heard by different judges.

Here, Trustee Rushton has brought his Motion on the grounds that these cases all (1) arise from the same order; (2) involve the same property; (3) call for determination of the same questions of law; (4) seek review of the same findings of fact; (5) would entail substantial duplication of time and effort on the part of the Court and the Trustee’s counsel; and (6) would create a risk of inconsistent or conflicting decisions on the same issues.<sup>3</sup> The remaining parties to the above listed actions have either sought to join in Trustee’s Rushton’s Motion to Consolidate,<sup>4</sup> filed Notice of Non-Opposition to the Motion to Consolidate,<sup>5</sup> or failed to object to the Motion.

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<sup>3</sup>See Docket No 10, at 2.

<sup>4</sup>Docket No. 13.

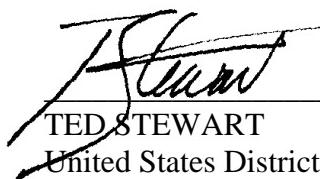
<sup>5</sup>Docket Nos. 14 & 15.

For the reasons listed above and included in Trustee Rushton's Motion, the Court will grant the Motion and Consolidate the cases. Pursuant to DUCivR 42-1, the cases will be consolidated into the case with the lowest number, *CW Mining et al v. COP Coal Development et al*, 2:10-CV-920- TS. It is therefore

ORDERED that the Motion of Trustee Kenneth A. Rushton to Consolidate Appeals from August 4, 2010 Order Approving Sale of Assets (Docket No. 10) is GRANTED. It is further ORDERED that Castle Valley Mining and Rhino Energy's Motion for Joinder (Docket No. 13) is GRANTED. The Clerk of the Court is directed to consolidate cases *Hiawatha Coal Company v. COP Coal Development et al*, 2:10-CV-921- TS; *COP Coal Development et al v. ANR et al*, 2:10-CV-922- TS; and, *ANR v. COP Coal Development et al*, 2:10-CV-924- TS into *CW Mining et al v. COP Coal Development et al*, 2:10-CV-920- TS.

DATED September 13, 2011.

BY THE COURT:



TED STEWART  
United States District Judge